IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 16021 of 2000

Between:

K.Vijaya Bhaskar Reddy, S/o.Veer Reddy, aged about 34 years,
A.P.State Irrigation Development Corporation Sub Division, Kovvur,
R/o.H.No.15-2-21/A, Bapuji Nagar, Near Municipal Park, Kovvur,

West Godavari District.

..... PETITIONER

AND

The Andhra Pradesh State Irrigation Development Corporation Limited,

(A State Government Undertaking)
Regd.Office:Maitrivanam, Huda Complex, Srinivasanagar Colony (East),
Hyderabad-38, represented by its Vice Chairman and Managing Director.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more in the nature of Writ of Mandamus, directing the respondent to regulate the period of suspension with effect from 10.4.1997 to 31.12.1999 of the petitioner as on duty with full pay, increments and allowances for all purposes and consequently pay all the arrears of salary to the petitioner in view of Rule 33(c) of the Staff Regulations R/w. Standing Order XXIII of the Respondent-Corporation.

Counsel for the Petitioner: MR.T.SURYA KARAN REDDY

Counsel for the Respondent: MR.TADDI NAGESWARA RAO

The Court made the following :

O R D E R

This writ petition is filed seeking a Mandamus directing the respondent to regulate the period of suspension with effect from 10.04.1997 to 31.12.1999 and treat the same as on duty and pay all wages, increments and allowances in view of Rule 33 (C) of the Staff Regulations read with Standing Order XXIII of the Respondent-corporation.

It is the case of the petitioner that while he was working as Assistant Executive Engineer at Addateegal Sub Division was involved in a criminal case of murder punishable under Section 302 read with Section 498-A of the Indian Penal Code in connection with the death of his wife in S.C. No. 347 of 1997 on the file of the learned III Additional Sessions Judge, East Godavari at Kakinada. Therefore, he was kept under suspension with effect from 10.04.1997 vide orders of the respondent dated 17/18.06.1997. Initially, the trial Court convicted the petitioner for life. However, on appeal filed before this Court in Criminal Appeal No. 1686 of 1998, dated 17.09.1999, the conviction was set aside. Pursuant to the acquittal order passed by this Court, the petitioner was reinstated into service on 27/28.12.1999 and joined duty in the month of January, 2000 and working as such as on date. However, the suspension period was not regulated and no salary and allowances were paid. The petitioner is entitled for such full salary and allowances in view of the clear acquittal by this Court in the criminal appeal. Under the Staff Regulation read

with Standing Orders, an employee who is acquitted by the higher Court shall be reinstated into service restoring his services and salary during which period he was actually prevented from attending to the duties by an order of suspension. Since the Management has not regulated the period, this writ petition is filed.

The respondent-management has filed a detailed counter affidavit denying the allegations made by the petitioner. Though the facts are not disputed, the counter sought to explain the legal position as to the course of action to be followed under C.C.A. Rules and Civil Service Regulations. It also says that though the petitioner was acquitted and reinstated into service, he shall be proceeded with departmentally. It is unfortunate that such a stand is taken by the respondent. This is a case where the crime arose outside the employment. The question of assuming jurisdiction by the Management and conducting domestic enquiry into the matter does not arise.

Be that as it may, the services of the petitioner for which he was out of employment was not regulated as required under the Rule 33 (c) of the Staff Regulations read with Standing Order XXIII of the respondent-Corporation. In this regard, the rule position is very clear which reads as under:-

"Standing Order of A.P.S.I.D.C.

(Certifying Officer, Dy. Commissioner of Labour, Hyderabad)

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(g) An employee shall not absent himself from his station overnight without obtaining the previous sanction of the Managing Director.

(h) Employees working as Telephone Operators or in the time office or in watch and ward or transport of power and water supply shall be regarded as engaged in essential services and required to perform their duties at all times without any interruption.

XXIII Any employee who is arrested on a criminal charge if so directed the Managing Director be considered as under suspension from the date of his arrest and shall be allowed subsistence allowance until the termination of the proceeding against him, where an adjustment of his pay and allowances shall be made according to the circumstances of the case and in the light of the decision as to whether his absence is to be counted as period spent on duty or leave, the full pay and allowances given only in the event of the employee being acquitted of all the

charges and treated as on duty during the period of his absence. An employee who is committed to prison for doubt or is convicted of any offence involving moral turpitude shall be liable to be dismissed from the service of the Corporation.

Where a conviction of an employee is set aside by a higher court and the employee is acquitted honourably he shall be reinstated in service restoring his services and salary during the period in which he was actually prevented from attending to his duties by an order of suspension.''

In view of the above legal position, it is the bounden duty of the respondent to consider and regularize the period for which he was out of employment and also to decide as to the entitlement of pay and other benefits and pass appropriate orders.

In the result, the respondent is directed to consider and decide the matter as per the above provisions within a period of three months from the date of receipt of a copy of this order and communicate the same to the petitioner within one week thereafter.

The writ petition is accordingly disposed of. No costs.

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C.V. RAMULU, J

9th June, 2005

vp

ASSISTANT REGISTER

//TRUE COPY//

SECTION OFFICER

To

1. The Vice Chairman and Managing Director, A.P. State Irrigation Development Corporation Limited, Regd. Office: Maitrivanam, Huda Complex, Srinivasanagar Colony (East), Hyderabad

2) 2 C.D. copies.